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HOOVER v. HOOVER et al.

(Nov. 18, 1920.

[105 S. E. 91.]

1. Bastards (§ 12*)—Marriage of Parents Did Not Legitimate under Common Law.—Under the common law, children born out of wedlock were not legitimated by the subsequent marriage of their parents.

2. Bastards (§ 4*)—Party Asserting Legitimation of Child Born Out of Wedlock Has Burden of Proof.—Under Code 1919, § 5269, providing that, if a man marry a woman after having a child by her, such child, if recognized by him, is legitimated, the party asserting legitimation has the burden of proving the essential requirements of the statute.

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 335.]

3. Statutes (§ 190*)—Plain Language Must Be Given Effect.—The object in construing statutes is to ascertain the legislative intent, and, where the language used is clear, effect must be given to it.

[Ed. Note.—For other cases, see 12 Va.-W. Va. Enc. Dig. 760.]

4. Bastards (§ 136)—Recognition by Alleged Father Essential to Legitimation; "Recognized."—Code 1919, § 5269, providing that if a man marry a woman after having a child by her, such child, if "recognized" by him, is legitimated, makes recognition by the putative father essential to legitimation, and the quoted word means that the alleged father should have unequivocally acknowledged, accepted, admitted, or owned the child as his.

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 335. For other definitions, see Words and Phrases, Recognize.]

5. Bastards (§ 13*)—Evidence Insufficient to Show Alleged Father's Recognition of Child after Marrying Mother.—Evidence by three witnesses, contradicted by other testimony and surrounding circumstances, held insufficient to show that an alleged father, who married a child's mother after its birth to avoid a seduction prosecution, had recognized the child so as to legitimate it under Code 1919, § 5269.

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 336.]

Appeal from Circuit Court, Rockingham County.

Partition suit by Winnie Hoover against Benjamin E. Hoover and others. Decree for complainant, and defendants appeal. Reversed, and bill dismissed.

C. R. Winfield, of Broadway, and *John T. Harris*, of Harrisonburg, for appellants.

Ward Swank, of Harrisonburg, for appellee.

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.